

CALIFORNIA COASTAL COMMISSION

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F18a

March 19, 2003

TO: Commissioners and Interested Parties

FROM: Charles Lester, Deputy Director
Diane Landry, District Manager
Steve Monowitz, Coastal Planner

SUBJECT: **SAN LUIS OBISPO COUNTY LOCAL COASTAL PLAN MAJOR AMENDMENT NO. 1-01, Part A (Vacation Rental Ordinance).** For public hearing and Commission action at its meeting of April 11, 2003, to be held at the Radisson Santa Barbara, 1111 E. Cabrillo Blvd., Santa Barbara.

SYNOPSIS

This amendment proposes to define and identify residential vacation rentals as a particular type of land use, conditionally authorize this use within various land use categories throughout the County coastal zone, and establish regulations for residential vacation rentals that are applicable only in the communities of Cambria and Cayucos, where residents have expressed significant concerns regarding the impacts of vacation rentals. Should the County determine a need to apply these standards to other communities in the future, a subsequent LCP Amendment may be proposed to accomplish this purpose.

The intent of the amendment is to ensure that the rental of residences for transient use takes place in a manner that is compatible with residential communities and neighborhoods. To achieve this objective, the proposed ordinance would establish parameters regarding the allowable length and frequency of vacation rentals, as well as the number of occupants allowed. The ordinance also would institute standards regarding appearance, noise, signs, parking and traffic. Additionally, the ordinance would require vacation rentals to obtain zoning clearances and building licenses, pay transient occupancy taxes, and be managed by a local contact person available 24 hours a day to respond to tenant and neighborhood questions or concerns.

The rental of a residence in Cambria or Cayucos would only be subject to these standards when it meets the definition of Residential Vacation Rental proposed by the amendment. The definition does not include the one time rental of a residence for 14 days or less per year, or the rental of an entire structure for 30 days or longer.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends certification of the amendment only if it is modified to better address the impacts of vacation rentals on coastal resources, public access and residential neighborhoods. Although residential vacation rentals provide opportunities for public access and recreation that are protected by Coastal Act and LCP, they can have adverse impacts on public parking, coastal water supplies, and the character and integrity of residential areas. The suggested modifications are intended to avoid and minimize these

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impacts, as required to carry out the certified LUP, by:

- Limiting the allowable density of residential vacation rentals by prohibiting their establishment within 500 feet of a parcel being used for the same purpose. This is similar to the LCP standard regulating Bed and Breakfast facilities in residential areas.
- Requiring that parking for all tenants of residential vacation rentals be provided on-site, to avoid reductions on the availability of on-street public parking that supports coastal access and recreation opportunities.
- Clarifying that vacation rentals must comply with the same LCP standards applicable to the construction of a residence.
- Requiring proposed Residential Vacation Rentals to provide evidence that water and sewer service providers have confirmed that there is adequate service capacity to accommodate the proposed use.

With these modifications, the Land Use Plan component of the amendment will be consistent with the Chapter 3 Policies of the Coastal Act, and the implementation component will be adequate to carry out the certified Land Use Plan.

ANALYSIS CRITERIA

The relationship between the Coastal Act and a local government's Local Coastal Program can be described as a three-tiered hierarchy with the Coastal Act setting generally broad statewide policies. The Land Use Plan (LUP) portion of the LCP incorporates and refines Coastal Act policies for the local jurisdiction, giving guidance as to the kinds, locations, and intensities of coastal development. The Implementation Program (IP), or zoning portion of an LCP typically sets forth zone districts and site regulations which are the final refinement specifying how coastal development is to proceed on a particular parcel. The IP must be consistent with, and adequate to carry out, the policies of the LUP. The LUP must be consistent with the Coastal Act.

In this case, the proposed LCP Amendment affects both the LUP and IP components of the San Luis Obispo County LCP. The proposed definition of a Residential Vacation Rental, and the specification of which land use designations Residential Vacation Units are allowed, will be incorporated within the LUP, and must conform to the Coastal Act. The standard of review for the proposed Vacation Rental Ordinance is whether it is consistent with, and adequate to carry out the LUP.

ADDITIONAL INFORMATION

For further information about this report or the amendment process, please contact Steve Monowitz, Coastal Program Analyst, at the Central Coast District Office of the Coastal Commission, 725 Front Street, Suite 300, Santa Cruz, CA 95060; telephone number (831) 427-4863.

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EXHIBITS

1. Regional Location Map
2. Amendment Submittal
3. Correspondence

I. STAFF RECOMMENDATION

NOTE: A total of **FOUR** motions is required to complete the recommended action.

A. DENIAL OF LAND USE PLAN AMENDMENT NO. 1-01, PART A, AS SUBMITTED

MOTION: *I move that the Commission certify Land Use Plan Amendment 1-01 Part A as submitted by San Luis Obispo County.*

STAFF RECOMMENDATION TO DENY:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.



RESOLUTION TO DENY:

The Commission hereby denies certification of the Land Use Plan Amendment 1-01, Part A as submitted by *San Luis Obispo County* and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

B. APPROVAL OF LAND USE PLAN AMENDMENT NO. 1-01, PART A, IF MODIFIED AS SUGGESTED

MOTION: *I move that the Commission certify Land Use Plan Amendment 1-01 Part A for San Luis Obispo County if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

Staff recommends a **YES** vote. Passage of the motion will result in the certification of the land use plan amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Land Use Plan Amendment 1-01 Part A for San Luis Obispo County if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.

C. DENIAL OF IMPLEMENTATION PROGRAM AMENDMENT NO. 1-01, PART A, AS SUBMITTED

MOTION: *I move that the Commission reject Implementation Program Amendment No. 1-01 Part A for San Luis Obispo County as submitted.*



STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment No. 1-01 Part A for San Luis Obispo County and adopts the findings set forth below on grounds that the Implementation Program as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.

D. APPROVAL OF IMPLEMENTATION PLAN AMENDMENT NO. 1-01 PART A IF MODIFIED AS SUGGESTED

MOTION: *I move that the Commission certify Implementation Program Amendment No. 1-01 Part A for San Luis Obispo County if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies Implementation Program Amendment No. 1-01 Part A for San Luis Obispo County if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Implementation Program if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.



II. SUGGESTED MODIFICATIONS

The amendment submittal is attached to this report as Exhibit 2. The suggested modifications (below) indicate additions to the amendment submittal with underlines, and deletions with ~~strikethroughs~~.

A. Suggested Modifications to the LUP Amendments

Suggested modification to the proposed definition of Residential Vacation Rental:

~~The use of residential property where~~ A Residential Vacation Rental is the use of an existing residence, or a new residential structure that has been constructed in conformance with all standards applicable to residential development, is rented as a rental for transient use. Rental shall not exceed one individual tenancy within seven consecutive calendar days. This definition does not include the one time rental of a residence for 14 consecutive days or less in any calendar year; “Bed and Breakfast Facilities”, “Homestays”, and Hotels, Motels” which are defined separately; and rooming and boarding houses (included under “Multi-Family Dwellings”) or rental of an entire structure for 30 days or longer.

B. Suggested Modifications to the IP Amendments

Suggested modification to proposed Ordinance 23.08.165, attached to this report as Exhibit 2 (additions shown by underlines, deletions by ~~strikethroughs~~):

23.08.165 – Residential Vacation Rental. The development of a new structure intended for use as a Residential Vacation Rental shall comply with all standards applicable to the construction of a residence within the land use designation that the Residential Vacation Rental is proposed. Rental shall not exceed one individual tenancy within seven consecutive calendar days. The use of residential property as a vacation rental within the Cambria and Cayucos urban reserve lines shall comply with the following standards ~~within the Cambria and Cayucos urban reserve lines~~:

...

- b. Permit Requirements. Zoning Clearance, Business License and Transient Occupancy Tax Registration for each residential vacation rental. Where water or sewage disposal is provided by a community system, evidence shall be submitted with the application for Zoning Clearance to show that the service provider(s) has been informed of the proposed use of the property as a vacation rental, and has confirmed that there is adequate service capacity available to accommodate this use.
- c. Location. Within all residential land use categories, no residential vacation rental shall be located within 500 feet of a parcel on which is located any residential



vacation rental or other type of visitor-serving accommodation.

- e. ~~d.~~ Vacation rental tenancy. Rental of a residence shall not exceed one individual tenancy within seven consecutive calendar days. ~~A four day minimum rental is required, however, occupancy of the residence is not required to occur for the entire time period.~~ No additional occupancy (with the exception of the property owner) shall occur within that seven day period. A residential vacation rental shall only be used for the purposes of occupancy as a vacation rental or as a full time occupied unit. No other use (i.e.: home occupation, temporary event, homestay) shall be allowed on the site.
- d. ~~e.~~ Number of occupants allowed. The maximum number of occupants allowed in an individual vacation rental shall not exceed the number of occupants that can be accommodated consistent with the on-site parking requirement set forth in subsection i hereof, and shall not exceed two persons per bedroom plus two additional persons. The Zoning Clearance shall specify the maximum number of occupants allowed in each individual vacation rental.

[Re-letter following subsections accordingly]

...

- ~~g. h.~~ Parking and Traffic. Vehicles used and traffic generated by the residential vacation rental shall not exceed the type of vehicles or traffic volume normally generated by a home occupied by a full time resident in a residential neighborhood. For purposes of this section, normal residential traffic volume means up to 10 trips per day. ~~All parking shall occur on the garage, driveway and/or street frontage of the site. The conduct of the residential vacation rental shall not preclude the use of the garage for guest vehicle parking on a daily basis.~~
- i. On-Site Parking Required. All parking associated with a Residential Vacation Rental shall be entirely on-site, in accordance with subsection e., above. Tenants of residential vacation rentals shall not use on-street parking at any time.

...

- ~~k. m.~~ Effect on existing residential vacation rentals. Each individual vacation rental unit in existence on the effective date of this section (*insert effective date*) shall be subject to a Zoning Clearance, Business License, Transient Occupancy tax registration, and all standards set forth in this Section except subsection c regarding location, provided evidence that the vacation rental unit was in existence prior to April 11, 2003. Zoning Clearance, Business License, and Transient Occupancy Tax Registration, shall be requested from the County within 120 days of the effective date specified above. If the Zoning Clearance, Business License, and Transient Occupancy Tax Registration, have not been requested within the time frames set forth in this section, the penalties of Chapter 22.10 (Enforcement) of this Title shall apply.



III. RECOMMENDED FINDINGS

A. LCP Background

The San Luis Obispo County certified LCP is composed of seven parts: the Coastal Zone Land Use Ordinances, which is the Implementation Plan (IP) portion of the LCP; the Framework for Planning, the Coastal Plan Policies, and four area plans, which make up the Land Use Plan (LUP). The Commission approved the LUP with modifications on October 4, 1982, and the IP was approved as submitted on October 7, 1986. The County assumed permit-issuing authority on March 1, 1988. Currently, the LCP does not include standards for residential vacation rentals.

B. Amendment Description

The amendment proposes standards for the use of residences as vacation rentals, intended to improve the compatibility of such rentals with surrounding residential uses. The amendment was developed in response to resident's concerns about the impact of vacation rental on their communities. According to the County, these concerns have been limited to the communities of Cambria and Cayucos. Thus, most of the proposed standards for rental of residences as vacation units are applicable only within the urban reserve lines of Cambria and Cayucos. The County has indicated its intention to consider the expansion of these standards, via future LCP amendments, in the event that residential vacation rentals become an issue in other coastal communities.

Within the certified LUP, the amendment proposes to identify Residential Vacation Rentals as a special (i.e., conditional) use allowed within all land use designations except the Commercial Service, Industrial, Public Facility and Open Space designations. The only standard for Residential Vacation Rentals contained in the LUP portion of the amendment, which would apply countywide, is one that prohibits the frequency of rentals from exceeding one individual tenancy within seven consecutive calendar days. This standard is found in the proposed definition for Residential Vacation Rentals, which states:

The use of residential property where a residence is rented for transient use. Rental shall not exceed one individual tenancy within seven consecutive calendar days. This definition does not include the one time rental of a residence for 14 consecutive days or less in any calendar year, "Bed and Breakfast Facilities," "Homestays," and Hotels, Motels" which are defined separately; and rooming and boarding houses (included under "Multi-Family Dwellings") or rental of an entire structure for 30 days or longer.

All of the other proposed standards for Residential Vacation Rentals are to be located in the Coastal Zone Land Use Ordinance (CZLUO) component of the certified IP, and apply only to the Cambria and Cayucos urban areas. The proposed ordinance (CZLUO Section 23.08.165) identifies permit requirements, limits the frequency and occupancy of vacation rentals, and establishes standards regarding the appearance, operation, and management of such units.

In terms of permit requirements, the proposed ordinance calls for Zoning Clearance, Business License and Transient Occupancy Tax Registration for each residential vacation rental. Zoning Clearance



represents verification by the San Luis Obispo County Department of Planning and Building that certain proposed uses of existing buildings and other activities are in compliance with the LCP. Applications to establish a Residential Vacation Rental must also submit evidence that water and sewer service providers had been informed of the proposed use.

With regard to occupancy, the proposed ordinance establishes a maximum of two persons per bedroom plus two additional persons, and limits the frequency of such rentals to one per seven calendar days. There is a minimum rental period of four days, but the unit is not required to be occupied during the entire four day period.

The other proposed standards for residential vacation are summarized as follows:

- Where a residence is used as a vacation uses, other uses such as home occupations, temporary events, and homestays are prohibited;
- Vacation rentals must not change the residential appearance of the structure;
- On-site signs advertising vacation rentals are prohibited;
- Vehicle use associated with the rental unit must not exceed 10 trips per day;
- Parking for renters must be provided on the site (in the garage and driveway) and on the street frontage of the site;
- Residential Vacation Rentals must comply with the County Noise ordinance. Equipment requiring more than the standards household electrical currents, or that would produce noise, dust, odor, or vibration detrimental to adjoining residences are prohibited;
- A local property manager must be designated and available 24 hours a day to respond to tenant and neighborhood questions or concerns. This information must be posted in a prominent location in the unit and furnished to the County Planning Department, Sheriff stations, and fire agencies. Where the local property manager is unavailable or fails to respond the complaining party is to contact the Sheriff's Department.

In addition to being subject to the Enforcement Section of the CZLUO, the proposed ordinance specifies that violation of the above standards may result in revocation of the Zoning Clearance and Building License for the Residential Vacation Rental.



C. Amendment Background

The proposed amendment was considered and continued by the Commission on March 7, 2002 in order to provide the County with time to respond to the concerns regarding the impacts of vacation rentals on coastal resources, coastal access opportunities, and the integrity of residential neighborhoods. On April 17, 2002, the Commission staff sent a letter requesting the County to further evaluate the need to limit the amount of residential vacation rentals; address impacts to water supplies, water quality, public parking, and other land use designations; address the American Disability Act (ADA) requirements; and, ensure that regulations will be effectively enforced. A copy of this letter is attached as Exhibit 3, page 15.

San Luis Obispo County submitted a response to this letter on February 20, 2003 (pages 20 – 22 of Exhibit 3) that presents the County’s position on these issues. The County has not proposed any revisions to the amendment submittal, but has outlined some modifications for the Commission to consider. With respect to limiting the number of vacation rentals, the County has suggested prohibiting the establishment of any new vacation rental within 500 feet of a parcel already containing a vacation rental. This is the same way in which the existing LCP currently regulates the number of Bed and Breakfasts within Residential Suburban Land Use Categories. With regard to parking, the County’s letter states that the Commission could require all parking to be provided on-site.

In terms of water use, the County response states that the Cambria Community Services District has indicated that vacation rentals use less water than full time residents. The letter also states that additional water information is being developed by a Property Manager’s Association, and will be submitted at a later date.

Finally, with respect to enforcement, the County indicates that the Sheriff’s Office, County Code Enforcement, and property managers will enforce compliance with the ordinance. A more detailed analysis of these issues is presented in the following findings.

D. Coastal Act Consistency

The proposed amendment to the certified LUP must conform to the Chapter 3 policies of the Coastal Act. An analysis of the LUP amendment’s consistency with the applicable Coastal Act policies is provided below.

1. Coastal Access and Recreation

a. Access and Recreation Policies

Coastal Act Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30213 states, in relevant part:



Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred. ...

Coastal Act Section 30222 provides:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities shall have high priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal dependent developments or users.

Coastal Act Section 30252 requires:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the development.

2. Analysis

The above policies protect coastal access and recreation opportunities for the general public, among other ways, by prioritizing the provision of visitor-serving commercial facilities, particularly lower cost facilities, and requiring that new development be accompanied by the planning and infrastructure necessary to protect and enhance existing access and recreation opportunities. Section 30210 recognizes that the provision of maximum access must protect public rights, private property rights, and natural resource areas from overuse.

The opportunity to rent residences within California's coastal communities represents one way in which California residents and visitors enjoy the coast. In some instances, residential vacation rentals may provide a lower cost alternative to renting hotel or motel rooms for large families or groups of individuals. In this context, proposals to regulate the rental of residences to visitors have the potential to conflict with Coastal Act objectives to protect access and recreation opportunities, as well as with the prioritization of visitor-serving commercial facilities established by Section 30222.

In the case of the proposed LUP amendment, the establishment of Residential Vacation Rentals as a special (i.e., conditional) use will not reduce coastal access and recreation opportunities. The designation does not prohibit, or unduly restrict the rental of residences to visitors, in a manner that will diminish the public's ability to access and recreate on the coast by renting a coastal residence. Rather, the designation of a Residential Vacation Rental as a special use provides an opportunity to regulate



Residential Vacation rentals, where necessary, in a manner that protects coastal resources and access and recreation opportunities consistent with the Chapter 3 policies of the Coastal Act and the certified Land Use Plan.

Indeed, regulating residential vacation rentals has been identified by residents of Cambria and Cayucos as a critical need for the protection of their private property, as required by Coastal Act Section 30210. Without proper regulation, vacation rentals can adversely affect the rights of adjacent residential property owners by introducing excessive noise and activity beyond that which is reasonable for a residential neighborhood. Notwithstanding the fact that vacation rentals provide visitor-serving and coastal recreation opportunities, some instances may arise where regulation is needed to ensure that such facilities respect the resource protection standards, and the integrity of the residential land use designations, established by the LCP. The County has proposed to provide these regulations in the certified Implementation Plan, which must be adequate to carry out the provisions of the certified Land Use Plan, and are analyzed in detail below. The Land Use Plan portion of the amendment is consistent with Coastal Act policies because it provides appropriate discretion over the proposed establishment of residential vacation rentals by designating them as a conditionally (rather than principally) permitted use.

c. Conclusion

The proposal to establish Residential Vacation Rentals as an allowable but conditional use provides an appropriate means to ensure that such use, which provide coastal access and recreation opportunities, are established and operated consistent with the protection coastal resources and adjacent properties, in accordance with the Coastal Act access and recreation policies cited above.

2. New Development

a. Coastal Act Policies

Section 30250 requires, in relevant part:

- (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it, or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. ...

b. Analysis

The primary means by which LCP's carry out Section 32050 and other Coastal Act resource protection requirements is to establish regulations regarding the allowable type, intensity and location of particular land uses. The submitted LUP amendment proposes to establish Residential Vacation Rentals as an allowable use, but does not include standards regarding the development of such uses necessary to ensure consistency with Coastal Act Section 30250 or other Coastal Act resource protection requirements. For example, the amendment does not identify height and density limits or setback standards that would apply to a proposal to construct Residential Vacation Rental units. Apparently this was an oversight related to the fact that most Residential Vacation Rentals take place within an existing residential development, and



therefore do not involve any new construction.

To address this issue, the Suggested Modification to the Land Use Plan amendment revises the definition of Residential Vacation Rentals in a manner that clarifies that this use is limited to the rental of an *existing* residence, or a new residence *constructed in conformance with all LCP standards applicable to residential development*. This modification ensures that the establishment of a Residential Vacation Rental will be carried out in a manner that addresses the coastal resource protection criteria for new development established by Section 30250 and other Chapter 3 policies of the Coastal Act.

c. Conclusion

The amendment must be denied as submitted because the establishment of Residential Vacation Rentals as an independent land use is not accompanied by standards necessary to ensure that the development of this use will take place consistent with Section 30250 and other Chapter 3 policies of the Coastal Act. Therefore, the Commission suggests that the amendment be modified in a manner that applies the same LCP development standards and performance criteria for residential uses to the development of a Residential Vacation Rental. Only with this modification can the amendment be found consistent with Chapter 3 of the Coastal Act.

D. Ability to Carry Out LUP

1. Coastal Access and Recreation

a. LUP Provisions

Access Policy 4: Provision of Support Facilities and Improvements

Facilities necessary for public access shall be provided. This may include parking areas, restroom facilities, picnic tables or other such improvements. The level of these facilities and improvements should be consistent with the existing and proposed intensity and level of access use and provisions for on-going maintenance. Requirements for coastal access and improvements are identified in the specific Planning Area Standards and the Land Use Ordinance for the coastal zone. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.430H OF THE CZLUO.]

Access Policy 8: Minimizing Conflicts with Adjacent Uses

Maximum Access shall be provided in a manner which minimizes conflicts with adjacent uses. Where a proposed project would increase the burdens on access to the shoreline at the present time or in the future, additional access areas may be required to balance the impact of heavier use resulting from the construction of the proposed project. [THIS POLICY SHOULD BE IMPLEMENTED PURSUANT TO SECTION 23.04.420J OF THE CZLUO].

Access Policy 10: Protection of Property Rights and Privacy

The acquisition of rights for access and view purposes and other uses by the public should be consistent with the protection of the property and the use rights of private property owners. Access routes should be



selected and designed so as to minimize the public impact on private property.

This is not meant to be exclusionary against public access rights but to cause a balance to be struck in protecting the individual citizen's property and privacy. Nothing in the Local Coastal Program is to be construed as encouraging, permitting, or endorsing trespass or invasion of private property rights or privacy. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.04.420K OF THE CZLUO.]

Recreation and Visitor Serving Facilities Policy 1: Recreation Opportunities

Coastal Recreation and visitor-serving facilities, especially lower-cost facilities, shall be protected, encouraged, and where feasible provided by both public and private means. ...

Recreation and Visitor-Serving Facilities Policy 2: Priority for Visitor-Serving Facilities

Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent use, but not over agriculture or coastal dependent industry in accordance with PRC 30222. All uses shall be consistent with protection of significant coastal resources. The Land Use Plan shall incorporate provisions for areas appropriate for visitor-serving facilities that are adequate for foreseeable demand. ...

b. Analysis

Similar to the Coastal Act Policies previously cited, the LUP seeks to protect and maximize coastal access and recreation opportunities in a manner that is consistent with the protection of coastal resources and residential properties. The regulation of residential vacation rentals plays an important role in implementing these LUP policies by ensuring that this visitor-serving use is conducted in a manner that protects access, resources, and the integrity of residential land use designations.

Impacts to public parking. Vacation rentals are often occupied by more than one family, and therefore require more parking spaces than homes occupied by full time residents. As a result, the use of homes as vacation rentals reduces the amount of on-street parking used for beach day use and coastal recreation. As submitted, the proposed ordinance does not adequately address this impact because it allows residential vacation rentals to use on-street parking to meet parking requirements, and lacks the density standards necessary to prevent a cumulatively significant impact. The suggested modifications to this amendment seek to implement LUP policies calling for the protection and provision of adequate public access support facilities by requiring that all vacation rental parking be provided on-site, as suggested in the County's response to the concerns previously expressed by the Commission. This is to be implemented by limiting the number of allowable applicants to that which can be accommodated by on-site parking.

Impacts to residential properties and neighborhoods. The intensity of use that occurs on a residential parcels being used as vacation rental exceeds that of a typical single-family residence in more than just parking. The number of people occupying vacation rentals, and the associated level of noise and activity, can increase demands on public infrastructure capacities and cause conflicts with adjacent property owners. Full-time residents concerned about the impacts that residential vacation rentals have on their community have asserted that their property rights, and the integrity of their residential neighborhoods,



are being adversely affected by short-term rentals.

There are various regulatory tools available to address these impacts, which can be cumulatively significant. These include limiting the intensity of vacation rental use, and restricting the number and density of such units to address cumulative impacts. As submitted, the ordinance only regulates intensity, by limiting turn over to no more than one rental every seven days. This only partly addresses the impacts that vacation rentals can have on residential neighborhoods.

Another method for regulating the intensity of vacation rental use requested by local residents is a minimum 4-day rentals period, at full-value advertised rates. It appears that this request is based on a presumption that visitors who stay for longer periods of time are less likely to engage in disruptive behavior. Although the 4-day minimum stay limit was included in the version of the ordinance approved by the County Planning Commission, the enforceability of this requirement was diminished by the Board of Supervisors addition of language that does not require renters to be present during the 4 day rental period.

The suggestion to establish a four-day minimum stay requirement conflicts with LUP objectives, because it would unduly restrict the coastal access and recreation opportunities supported by weekend rentals. In addition, the establishment of minimum rental fees is inconsistent with LUP Policies protecting and encouraging lower-cost visitor serving opportunities, as well as with Coastal Act Section 30213, which specifically prohibits the Commission from fixing rental rates.

Therefore, rather than establishing minimum stays and rental prices that diminish lower-cost visitor-serving opportunities, the suggested modifications to this amendment seek to protect residential communities by restricting the overall density and number of such rentals allowed. This will ensure that the number of rentals do not exceed that which will diminish the residential character of neighborhoods, and will help protect the rights of full time residents by avoiding situations where a home is surrounded by rentals.

Although the County has indicated concern about imposing such limits, the February 20, 2003 letter from County planning staff states “that if the Commission were to apply such a restriction, then it should be the same restriction as applies to Bed and Breakfast facilities in the Residential Suburban land use category. This limitation does not allow for the establishment of a Bed and Breakfast facility within 500 feet of a parcel on which is located any other bed and breakfast facility. If imposed, this standard could apply to all new residential vacation rentals requested after the 120 day timeframe established in the ordinance for existing vacation rentals to receive zoning clearance/business license approval. This would allow for all existing established vacation rentals to continue and would only affect new requests.

Application of the suggested standard provides a viable means for protecting the residential neighborhoods of Cambria and Cayucos, where the most prevalent numbers of vacation rentals are located. These areas contain small lots with about 50 feet of street frontage, and approximately 12 lots per block. Thus, the suggested modification would limit residential vacation rentals in most urban areas of Cayucos and Cambria to, in most cases, one per street. In addition, this would cap the overall number of rentals that could be established at buildout. More than one rental per street may occur when they are located on corner lots, or where the rentals were in operation prior to the Commission’s action on this amendment. This is in contrast to the County’s suggestion, which would essentially allow new rentals to



be established within 500 feet of an existing residence for a period up to 120 days after the ordinance becomes effective, which could be over a year from the Commission's action.

c. Conclusion

As submitted, the proposed ordinance is inadequate to carry out LUP Policies protecting parking that serves public access, and requiring that the provision of access and visitor-serving facilities protect adjacent properties. This is due to the fact that the amendment does not adequately address the cumulative impacts that an unlimited number of vacation rentals will have on public parking opportunities, and the integrity of residential neighborhoods. Therefore, only as modified to establish density limits and on-site parking requirements will the amendment carry out the LUP access and recreation policies cited above.

2. Public Service Capacities

a. LUP Provisions

Coastal Plan Policy 1 for Public Works states:

New development (including the division of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable. Permitted development outside the USL shall be allowed only if it can be serviced by adequate private on-site water and waste disposal systems.

The applicant shall assume responsibility in accordance with county ordinances or the rules and regulations of the applicable service district or other providers of services for costs of service extensions or improvements that are required as a result of the project. Lack of proper arrangements for guaranteeing service is grounds for denial of the project or reduction of the density that could otherwise be approved consistent with available resources.

b. Analysis

Both Cambria and Cayucos have limited public service capacities, particularly related to water supplies, that need to be considered when the LCP is amendment to expand the allowable type of land uses. In the case of the proposed amendment, the establishment of Residential Vacation Rentals is not an expansion of allowable land use per say, since short-term rentals of residences in these communities has been ongoing, and the amendment only regulates this existing use. Nevertheless, given the significant water constraints faced by both these communities, it is important to evaluate how the continued use of residences as vacation rentals may be impacting local water supply capacities.

In response to Commission concerns regarding this issue, the County staff has indicated that, based on



their discussions with the Cambria Community Services District (CCSD), it can be assumed that vacation rentals use less water than full time residents. Specifically, the County's letter of February 20, 2003 states:

"Since primary use of vacation is in the summer months which means that other parts of the year the rental is empty, it was presumed by the CCSD that there would be less water use in that unit than in a unit that is occupied year round by a full time resident. Specific information about water use is being developed by the Property Manager's association and should be available soon. I will pass this information to you as soon as it becomes available."

The additional information referenced by the County's letter has not been received as of the writing of this staff report, but is expected to be available prior to the hearing. Based on the information currently available, the submitted amendment requires applications to establish vacation rentals to include evidence that water and sewer providers have been informed of the proposed use of the property as a Residential Vacation Rental. This does not provide an effective mechanism to prevent a Residential Vacation Rental from being established in the event that there are not adequate services available. Thus, the suggested modifications require applications to be accompanied by evidence that the service providers have determined that there are adequate water and sewer capacities available to serve the proposed Residential Vacation Rental.

c. Conclusion

As submitted, the Implementation Plan amendment does not carry out LUP provisions requiring the demonstration of adequate and available public services, and therefore must be denied. Only with the suggested modification that requires applications to establish Residential Vacation Rentals to provide evidence of available public services will the implementation plan amendment effectively carry out the certified LUP.



4. Standards for the Construction of Residential Vacation Rentals

a. LUP Coastal Resource Protection Provisions

As previously noted, the submitted amendment lacks the development standards necessary to address the full range of impacts that the construction of a new structure, proposed as a Residential Vacation Rental, may have on coastal resources, such as scenic views and sensitive habitats. Therefore, the LUP amendment must be modified to clarify that such development is subject to the same development and performance standards as the construction of a residence.

b. Analysis

To effectively implement the modified Land Use amendment, a parallel modification must be made to the submitted Implementation Plan amendment. Specifically, the ordinance regulating the establishment of Residential Vacation Rentals must be supplemented with a requirement that the development of a new structure intended for use as a Residential Vacation Rental must comply with all LCP standards applicable to the construction of a residence within the land use designation that the Residential Vacation Rental is proposed.

c. Conclusion

The implementation plan amendment must be denied as submitted because it does not contain adequate standards for the construction of a residential vacation rental to effectively implement the coastal resource protection provisions established by the certified Land Use Plan. Only with the suggested modification will the implementation plan amendment effectively carry out the certified Land Use Plan.

E. California Environmental Quality Act (CEQA)

The Secretary of Resources has certified the Coastal Commission's review and development process for Local Coastal Programs and amendments as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does use any environmental information that the local government has developed. In this case the County approved a Negative Declaration for the LCP amendment. Staff has applied the information presented in the Negative Declaration, as well as public comments received, in the analysis of the amendment submittal, and has identified additional measures that need to be incorporated into the amendment in order to avoid adverse environmental impacts. These measures are embodied in the suggested modifications to the County's amendment submittal. With these changes, approval of the amendment complies with the California Environmental Quality Act because as modified, the amendment will not have significant environmental effects for which feasible alternatives or mitigation measures have not been employed. The basis for this determination is documented in the findings of this report, which are incorporated by reference as if set forth herein in full.

